



March 20, 2012

House Natural Resources, Tourism and Outdoor Recreation Committee
Lansing, Michigan

Re: Cleanup of Leaking Underground Storage Tanks, SB 528-533

Dear Representatives,

The Michigan Environmental Council supports efforts to speed the cleanup of leaking underground storage tank sites across the state. Greater focus and attention needs to be placed on the over 9000 known sites of leaking underground tanks located across Michigan placing drinking water at unnecessary risk. Unfortunately, these bills fall short of steps necessary to protect public health.

The program as it exists today states that department approval is necessary in any of the following circumstances:

- Use of institutional controls to limit exposure are required (used in many case where site-specific measures are utilized) (SB 530 (H-1), page 7, line 23-27).
- The relocation of any contaminated soils (SB 528 (H-1) page 5, line 21).
- The form and content of any notice of restrictive covenants being used to limit exposure at a contaminated property (SB 528 (H-1), page 16, line 22, page 17, line 26).
- When restrictions can be removed (SB 528 (H-1), page 17, line 20).
- Approval of alternative control mechanisms (SB 528 (H-1), page 19, line 19).

The bills before you today eliminate many of these important controls to protect public health.

One of our greatest concerns is that the bills relinquish the state's responsibility to protect public health to the parties responsible for the contamination and who have a vested interest in minimize expenditures and therefore could potentially put the public at risk. The bills at a minimum should require the MDEQ to perform the following actions:

- Review any determination that the hazardous substances are not mobile or migrating. Hazardous substances that are mobile and migrating in groundwater may place drinking water sources or surface water bodies at risk.
- Review any closure report when the responsible party applies its own site specific target levels for cleanup because they are unable to clean the site to the level of unrestricted future use. In some cases, further cleanup may be feasible but the owner would be making a decision that further commitment of resources is not worth the reduction of risk that would occur.

- Mimic language added to Part 201 in 2010 to require the department to review at least 90% of the closure reports to ensure public health was being properly protected.

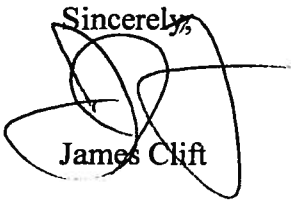
Whether a cleanup plan is protective of public health or not is a combination of two variables, the toxicity of the chemical in question and the risk that someone will be exposed to the chemical in question. Site-specific target levels (SSTL) by definition result in hazardous substances being left in the environment and exposure control being the primary or sole method to provide protection. Exposure controls are not perfect and can therefore result in unintended exposures. The program has gaps in its exposure controls, such as when a property owner can refuse to have a restrictive covenant placed on contaminated property. (SB 528 (H-1), page 16, line 20). No alternative control measure is required in this instance, thus resulting in an increased likelihood of exposure in the future.

It is important to note what happens if a party fails to properly close a site of contamination. If a closure plan is deemed approved, any future cleanup required to protect public health, is the responsibility of the taxpayers of Michigan.

Lastly, the state should not be preventing from requiring a party to abate "imminent risk to public health." Language included in the bill allowing the party responsibility for the contamination to appeal an administrative order to abate the risk before taking steps to protect public health should be removed.

If these changes are not made, we request Representatives oppose the legislation.

Sincerely,

A handwritten signature in black ink, appearing to be "James Clift", written over the printed name.

James Clift